



# House of Representatives

General Assembly

**File No. 408**

February Session, 2016

House Bill No. 5445

*House of Representatives, April 4, 2016*

The Committee on Insurance and Real Estate reported through REP. MEGNA of the 97th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT CONCERNING THE PURCHASE OF AN ANNUITY TO FUND PENSION BENEFITS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective October 1, 2016*) (a) As used in this  
2       subsection, "employer" means any person engaged in a business in this  
3       state and employing two or more employees, but does not include the  
4       state or a municipality or other political subdivision of the state, and  
5       "pension plan" has the same meaning as provided in 29 USC  
6       1002(2)(A), as amended from time to time.

7       (b) On and after October 1, 2016, any insurance company that issues  
8       an allocated or unallocated group annuity contract described in  
9       subparagraph (F) of subdivision (1) of subsection (a) of section 52-321a  
10      of the general statutes to an employer in this state or a pension plan  
11      providing retirement benefits to employees or retirees in this state shall  
12      provide, not later than thirty days before the effective date of such  
13      annuity contract, the following information in writing to each  
14      employee and retiree who is an intended participant of or beneficiary

15 under such annuity contract:

16 (1) A description of the differences in the protections afforded by  
17 such annuity contract and the Employee Retirement Income Security  
18 Act of 1974 or the federal Pension Benefit Guaranty Corporation, and a  
19 list of applicable state laws governing annuity payments;

20 (2) A statement of the amount of, scope of and conditions precedent  
21 for coverage under the Connecticut Life and Health Insurance  
22 Guaranty Association pursuant to chapter 704a of the general statutes  
23 or any subsequent corresponding guaranty association that provides  
24 coverage of annuity contracts to annuitants and beneficiaries residing  
25 in the state and any supplemental coverage provided under state law  
26 in the event of the insolvency of the insurance company;

27 (3) A statement of the extent to which annuity payments may  
28 become subject to claims of creditors of the insurance company or to  
29 avoidance actions taken by bankruptcy trustees;

30 (4) A statement of any change in the tax treatment of a participant of  
31 or beneficiary under such annuity contract;

32 (5) Detailed information about the annuity contract, including a  
33 schedule of all costs and expenses to be paid in connection with the  
34 issuance of such contract; and

35 (6) A copy of any fairness opinions or solvency analysis performed  
36 by the insurance company in connection with the selection of the  
37 annuity.

38 (c) For each such annuity contract issued on or after October 1, 2016,  
39 the insurance company shall provide annually the following  
40 information in writing to each employee and retiree who is a  
41 participant of or beneficiary under such annuity contract:

42 (1) The funding level of all assets relative to the expected liabilities  
43 under the assumed pension benefit schedules;

- 44 (2) An investment performance summary by asset class;
- 45 (3) An investment performance detail report by asset class;
- 46 (4) A list of all expenses associated with such annuity contract,  
 47 including payments made to beneficiaries and administrative  
 48 expenses;
- 49 (5) Changes, if any, in actuarial assumptions; and
- 50 (6) A list of any public documents related to such annuity contract  
 51 that have been filed with the Insurance Department and instructions  
 52 for obtaining any such documents.
- 53 (d) No such annuity contract shall be subsequently transferred  
 54 unless such transfer is made to an entity that maintains a rating  
 55 equivalent to an A or better from two or more nationally recognized  
 56 rating agencies.
- 57 (e) The Insurance Commissioner may adopt regulations, in  
 58 accordance with the provisions of chapter 54 of the general statutes, to  
 59 implement the provisions of this section, including the imposition of  
 60 any penalties, fines or assessments for a violation of any provision of  
 61 this section.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2016	New section
-----------	-----------------	-------------

**INS**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill imposes requirements on private insurers issuing annuity contracts and has no fiscal impact to the state or municipalities.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****HB 5445*****AN ACT CONCERNING THE PURCHASE OF AN ANNUITY TO FUND PENSION BENEFITS.*****SUMMARY:**

This bill requires insurers issuing certain annuity contracts to disclose (1) detailed information, including participants' or beneficiaries' legal protections, and (2) annually, the contract's financial status. Employers may enter into group annuity contracts to fund employee retirement benefits or otherwise decrease the risk associated with managing a retirement plan.

The bill also (1) prohibits the transfer of an annuity unless it is made to an entity that maintains an A or better rating, or its equivalent, from two or more nationally recognized rating agencies and (2) authorizes the insurance commissioner to adopt implementing regulations, including any penalties, fines, or assessments for violations.

The bill applies to allocated or unallocated annuity contracts issued to Connecticut employers or pension plans providing Connecticut employees or retirees with retirement benefits and under which the:

1. original retirement benefits are protected under the federal Employee Retirement Income Security Act (ERISA) or Pension Benefit Guaranty Corporation (PBGC) and
2. group annuity contract is not protected by ERISA or the PBGC (see BACKGROUND).

Under the bill, an "employer" is any person engaged in a business in Connecticut employing two or more people, excluding the state, its political subdivisions, and municipalities.

EFFECTIVE DATE: October 1, 2016

## **DISCLOSURE OF PARTICIPANTS' AND BENEFICIARIES' LEGAL PROTECTIONS**

Beginning October 1, 2016, the bill requires insurers issuing annuity contracts covered by the bill to disclose, to employees or retirees who are participants or beneficiaries under the contract, in writing and at least 30 days before the contract's effective date:

1. a description of the differences between the annuity contract's protections and those afforded by ERISA or the PBGC;
2. a list of applicable state laws governing annuity payments;
3. a statement of the amount of, scope of, and conditions precedent for coverage under the Connecticut Life and Health Insurance Guaranty Association (CLHIGA, see BACKGROUND), or any subsequent corresponding guaranty association;
4. a statement of the extent to which annuity payments are subject to the insurers' creditors' claims or trustees' bankruptcy avoidance actions;
5. detailed annuity contract information, including cost and expense schedules paid in connection with the contract's issuance; and
6. a copy of the insurer's fairness opinions or solvency analysis performed in connection with selecting the annuity.

For annuity contracts issued beginning October 1, 2016, the bill also requires these insurers to annually disclose to these individuals:

1. the funding level of all assets relative to the expected liabilities under the assumed pension benefit schedules;
2. an investment performance summary and detail report, by asset class;

3. a list of all the annuity contract's associated expenses, including administrative expenses and beneficiaries' payments;
4. any changes in actuarial assumptions; and
5. a list of any of the annuity contract's public documents filed with the insurance department, including instructions for obtaining them.

EFFECTIVE DATE: October 1, 2016

## **BACKGROUND**

### **ERISA AND PBGC**

ERISA sets minimum standards for private pension plans, including standards for participation, vesting, benefit accrual, funding, and pension management responsibility.

Under ERISA, most private defined benefit pension plans must obtain pension benefit insurance through the PBGC. The PBGC pays certain benefits if these plans are terminated (e.g., when the employer can no longer meet the plan's fiduciary obligations).

### **CLHIGA**

By law, eligible life and health insurers must participate in and pay CLHIGA. If an insurance company defaults, the guaranty association pays valid claims of policyholders and other claimants up to the dollar limits of the applicable policy, subject to minimum and maximums fixed by state law. CLHIGA covers direct, non-group life, health, and annuity policies.

## **COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable

Yea    17        Nay    2        (03/15/2016)